

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

IN RE APPLICATION OF: SIMON CHU, ET AL. SERIAL NO.: 10/675,614 FILED: 30 SEPTEMBER 2003 FOR: LOCATION SENSITIVE SOFTWARE EXECUTION	ATTY. DOCKET NO.: RPS920030112US1 § § § EXAMINER: NEWAY, SAMUEL G. § § CONFIRMATION NO.: 6364 § § ART UNIT: 2626 § § §
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APPEAL BRIEF B UNDER 37 C.F.R. 41.37

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Commissioner for Patents
P.O. Box 1450
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Sir:

This Brief is submitted in support of the Appeal of the Examiner's final rejection of Claims 1-5, 7-13, 15-21, 23 and 25 in the above-identified application. A Notice of Appeal was electronically filed in this case on October 4, 2007 and received in the United States Patent and Trademark Office on October 4, 2007. A One Month Extension of Time is requested for filing this brief. Please charge a One Month Extension of Time fee of \$140.00 to **DILLON & YUDELL, LLP DEPOSIT ACCOUNT NO. 50-3083**.

Because a previous Appeal Brief was filed and paid for (\$500.00) on April 25, 2007 in response to an earlier final rejection and subsequent appeal, Appellants believe that only \$10.00 (to account for the subsequent increase in appeal brief fees) is due. Therefore, Appellants request that this fee of \$10.00, as well as any additional required fees, be charged to **IBM CORPORATION DEPOSIT ACCOUNT No. 50-0563**.

REAL PARTY IN INTEREST

The real party in interest in the present Application is International Business Machines Corporation, the Assignee of the present application as evidenced by the Assignment set forth at reel 014302, frame 0919.

RELATED APPEALS AND INTERFERENCES

There are no other appeals or interferences known to Appellants, the Appellants' legal representative, or assignee, which directly affect or would be directly affected by or have a bearing on the Board's decision in the pending appeal.

STATUS OF CLAIMS

Claims 1-5, 7-13, 15-21, 23 and 25 stand finally rejected by the Examiner as noted in the Final Office Action dated August 3, 2007. The rejection of Claims 1-5, 7-13, 15-21, 23 and 25 under 35 U.S.C. § 112, first paragraph is appealed.

STATUS OF AMENDMENTS

No amendments to the claims have been made subsequent to the August 3, 2007 Final Office Action from which this Appeal is filed.

SUMMARY OF THE CLAIMED SUBJECT MATTER

As recited by Appellants' exemplary independent **Claim 1**, Appellants' invention provides a method for regulating execution of a software according to a physical location of a computer on which the software is to be executed (as supported in the originally filed specification on page 10, lines 1-2). The method comprises the steps of storing a first list of authorized location ranges where a computer is authorized to execute a first software (supported on page 10, lines 3-4), determining a physical location of the computer (supported on page 10, line 5), comparing the physical location of the computer with the first list of authorized location ranges (supported on page 10, lines 6-7), executing the first software only if the physical location of the computer is within a range of one of the authorized location ranges from the first list of authorized location ranges (supported on page 5, line 27 to page 6, line 2, and page 10, lines 8-

9), and executing the first software only if the computer does not receive information derived from a GPS signal (supported on page 8, lines 21-23).

As recited by Appellants' exemplary independent **Claim 9**, Appellants' invention further provides a system for regulating execution of a software according to a physical location of a computer on which the software is to be executed (as supported in the originally filed specification on page 10, lines 1-2). The system comprises means for storing a first list of authorized location ranges where a computer is authorized to execute a first software (supported on page 10, lines 3-4; Figure 1, element 116; Page 4, lines 14-16), means for determining a physical location of the computer (supported on page 10, line 5; Figure 1, element 122; page 4, lines 19-21), means for comparing the physical location of the computer with the first list of authorized location ranges (supported on page 10, lines 6-7; Figure 1, element 102; page 4, line 8), means for executing the first software only if the physical location of the computer is within a range of one of the authorized location ranges from the first list of authorized location ranges (supported on page 10, lines 8-9; Figure 1, element 102; page 4, line 8), and means for executing the first software only if the computer does not receive information derived from a GPS signal (supported on page 8, lines 21-23; Figure 1, element 102; page 4, line 8).

As described in exemplary **Claim 17**, the invention includes a software product, residing on a computer storage medium, for regulating execution of a software according to a physical location of a computer on which the software is to be executed (as supported in the originally filed specification on page 13, lines 7-9). The software product comprises program code for storing a first list of authorized location ranges where a computer is authorized to execute a first software (supported on page 13, lines 10-11), program code for determining a physical location of the computer (supported on page 13, line 12), program code for comparing the physical location of the computer with the first list of authorized location ranges (supported on page 13, lines 13-14), program code for executing the first software only if the physical location of the computer is within a range of one of the authorized location ranges from the first list of authorized location ranges (supported on page 13, lines 15-17), and program code for executing the first software only if a Global Positioning System (GPS) receiver on the computer does not detect a GPS signal (supported on page 8, lines 21-23).

GROUND OF REJECTION TO BE REVIEWED ON APPEAL

- A. The Examiner's rejection under 35 U.S.C. § 112, first paragraph of Claims 1-5, 7-13, 15-21, 23 and 25 as failing to comply with the written description requirement is to be reviewed on Appeal.

ARGUMENTS

- A. The Examiner's rejection under 35 U.S.C. § 112, first paragraph of Claims 1-5, 7-13, 15-21, 23 and 25 as failing to comply with the written description requirement is to be reviewed on Appeal.

The Examiner's rejection of Claims 1-5, 7-13, 15-21, 23 and 25 is improper since the claimed features comply with the written description.

With respect to exemplary **Claim 1**, the Examiner states that there is no support in the specification for executing software only if "the location is known to be secure" ("the physical location of the computer is within a range of one of the authorized location ranges from the first list of authorized location ranges") and "the computer does not receive information derived from a GPS signal." That is, the Examiner does not appear to dispute that these two features are supported ("the location is known to be secure" is supported, *inter alia*, on page 5, line 27 to page 6, line 2 of the original specification and "the computer does not receive information derived from the GPS signal" is supported on page 8, lines 21-23). However, the Examiner states that there is no suggestion of the computer doing both (limiting execution of software to the scenarios in which the computer is in a secure location and the computer is unable to receive GPS information.) Specifically, the Examiner states that there is no suggestion in the specification for checking if the GPS signal is present if the computer has already been deemed to be within an authorized location range. Appellants respectfully traverse the Examiner's position.

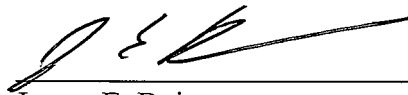
As stated on page 5, lines 22-24 and page 6, lines 6-8 of the original specification, a location service **208** (part of the computer) may determine that the computer is within an authorized location according to a local signal from a local transmitter. As supported on page 8, lines 1-4, this local signal sends the computer a real-time coordinate location identifier (e.g., within room **402**), that lets the location service **208** confirm that the computer is within an authorized location. In addition, the location service **208** may determine that the computer is within an authorized location if no GPS signal information is reaching the computer (page 8, lines 21-23). These are not mutually exclusive methods for determining that the computer is within an authorized location, and thus there is no reason for one skilled in the art to presume that only one or the other may occur, as postulated by the Examiner.

As the present claims comply with the written description, this rejection is not well founded and should be reversed.

CONCLUSION

Appellants have pointed out with specificity the manifest error in the Examiner's rejections. The Examiner has stipulated that Appellants' earlier arguments regarding novelty of the present claims in light of the cited prior art are persuasive. Appellants, therefore, respectfully request that this case be remanded to the Examiner with instructions to issue a Notice of Allowance for all pending claims.

Respectfully submitted,



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CLAIMS APPENDIX

1. A method for regulating execution of a software according to a physical location of a computer on which the software is to be executed, the method comprising:

storing a first list of authorized location ranges where a computer is authorized to execute a first software;

determining a physical location of the computer;

comparing the physical location of the computer with the first list of authorized location ranges;

executing the first software only if the physical location of the computer is within a range of one of the authorized location ranges from the first list of authorized location ranges; and

executing the first software only if the computer does not receive information derived from a GPS signal.

2. The method of claim 1, further comprising:

upon determining that the physical location of the computer is not within the first list of authorized location ranges, requesting execution of a second software, the second software having a second list of authorized location ranges;

comparing the physical location of the computer with the second list of authorized location ranges, and

executing the second software only if the physical location of the computer is within a range of one of the authorized location ranges from the second list of authorized location ranges.

3. The method of claim 1, further comprising:

upon determining that the computer is not located within an authorized area, generating an alert to a software administrator server of the unauthorized area in which the computer is located while attempting to execute a restricted software.

4. The method of claim 1, further comprising:

rechecking the physical location of the computer after the first software has executed; and

upon determining that the computer is no longer in an area authorized for executing the first software, disabling the first software.

5. The method of claim 4, wherein the first software is an application, and wherein the disabling of the first software is performed by deleting the first software from the computer's system memory.

6. (cancelled)

7. The method of claim 1, wherein the physical location of the computer is determined from a local enterprise generated signal.

8. The method of claim 7, wherein the local enterprise generated signal is confined to a single room.

9. A system for regulating execution of a software according to a physical location of a computer on which the software is to be executed, the system comprising:

means for storing a first list of authorized location ranges where a computer is authorized to execute a first software;

means for determining a physical location of the computer;

means for comparing the physical location of the computer with the first list of authorized location ranges;

means for executing the first software only if the physical location of the computer is within a range of one of the authorized location ranges from the first list of authorized location ranges; and

means for executing the first software only if the computer does not receive information derived from a GPS signal.

10. The system of claim 9, further comprising:

means for, upon determining that the physical location of the computer is not within the first list of authorized location ranges, requesting execution of a second software, the second software having a second list of authorized location ranges;

means for comparing the physical location of the computer with the second list of authorized location ranges, and

means for executing the second software only if the physical location of the computer is within a range of one of the authorized location ranges from the second list of authorized location ranges.

11. The system of claim 9, further comprising:

means for, upon determining that the computer is not located within an authorized area, generating an alert to a software administrator server of the unauthorized area in which the computer is located while attempting to execute a restricted software.

12. The system of claim 9, further comprising:

means for rechecking the physical location of the computer after the first software has executed; and

means for, upon determining that the computer is no longer in an area authorized for executing the first software, disabling the first software.

13. The system of claim 12, wherein the first software is an application, and wherein the means for disabling of the first software is a means for deleting the first software from the computer's system memory.

14. (cancelled)

15. The system of claim 9, wherein the means for determining the physical location of the computer utilizes a local enterprise generated signal.

16. The system of claim 15, wherein the local enterprise generated signal is confined to a single room.

17. A software product, residing on a computer storage medium, for regulating execution of a software according to a physical location of a computer on which the software is to be executed, the software product comprising:

program code for storing a first list of authorized location ranges where a computer is authorized to execute a first software;

program code for determining a physical location of the computer;

program code for comparing the physical location of the computer with the first list of authorized location ranges;

program code for executing the first software only if the physical location of the computer is within a range of one of the authorized location ranges from the first list of authorized location ranges; and

program code for executing the first software only if a Global Positioning System (GPS) receiver on the computer does not detect a GPS signal.

18. The software product of claim 17, further comprising:

program code for, upon determining that the physical location of the computer is not within the first list of authorized location ranges, requesting execution of a second software, the second software having a second list of authorized location ranges;

program code for comparing the physical location of the computer with the second list of authorized location ranges, and

program code for executing the second software only if the physical location of the computer is within a range of one of the authorized location ranges from the second list of authorized location ranges.

19. The software product of claim 17, further comprising:

program code for, upon determining that the computer is not located within an authorized area, generating an alert to a software administrator server of the unauthorized area in which the computer is located while attempting to execute a restricted software.

20. The software product of claim 17, further comprising:

program code for rechecking the physical location of the computer after the first software has executed; and

program code for, upon determining that the computer is no longer in an area authorized for executing the first software, disabling the first software.

21. The software product of claim 20, wherein the first software is an application, and wherein the program code for disabling of the first software deletes the first software from the computer's system memory.

22. (cancelled)

23. The software product of claim 17, wherein the physical location of the computer is determined from a local enterprise generated signal.

24. (cancelled)

25. The method of claim 2, further comprising:

in response to determining that the second software is not authorized to be executed by the computer at a current physical location of the computer, evaluating subsequent alternate programs until an authorized program is located on the computer, and executing the authorized program on the computer.

EVIDENCE APPENDIX

Other than the Office Action(s) and reply(ies) already of record, no additional evidence has been entered by Appellants or the Examiner in the above-identified application which is relevant to this appeal.

RELATED PROCEEDINGS APPENDIX

There are no related proceedings as described by 37 C.F.R. §41.37(c)(1)(x) known to Appellants, Appellants' legal representative, or assignee.